IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 551 OF 2003

IN

SUMM.SUIT NO.2582 OF 2001

Hardeep Singh Bhurji .. Plaintiff

versus

M/s Shree Ganesh Forgings Ltd ..Defendant

...

Mrs.Bharti Thakkar for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 16th March 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant. The plaintiff has filed on record the affidavit of service dated 30th June 2003. Despite service, the defendant has not applied for leave to defend nor filed any affidavit in reply. In the circumstrances, the plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

2. Learned counsel for the plaintiff hands in the original documents in a compilation. The documents are taken on record and and collectively marked A.

3. I have perused the plaint and the documents filed on record. As per the defendant’s order the plaintiff carried out certain work and issued the bills. The bills were received by the defendant and bear the signature of the defendant and in some cases there is signature of the defendant with a rubber stamp. The defendant did not make the payment of the bills. Hence, the plaintiff has filed this suit for the recovery of the money due under the bills. In the absence of any affidavit in reply averments made in the plaint are deemed to have been admitted. The plaintiff therefore is entitled to a decree in respect of the principal sum. As there is no agreement for interest, the plaintiff has given up the claim for past interest. As regards future interest it would be governed by section 34 of the Code of Civil Procedure. Hence, I pass the following order :

Summons for Judgment is made absolute and suit of the plaintiff is decreed as follows :

" The defendant shall pay to the plaintiff a sum of Rs.56,196.32 together with interest thereon at 9 % p.a. from the date of the suit till payment and all costs of the suit."

D.G.KARNIK, J